

Attorney or Party Name, Address, Telephone & FAX Nos., State Bar No. & Email Address CHAD V. HAES, #267221 chaes@marshackhays.com TINHO MANG, #322146 tmang@marshackhays.com MARSHACK HAYS LLP 870 Roosevelt Avenue Irvine, CA 92620 Telephone: (949) 333-7777 Facsimile: (949) 333-7778 <input type="checkbox"/> Individual appearing without attorney <input checked="" type="checkbox"/> Attorney for: LARRY D. SIMONS, Trustee	FOR COURT USE ONLY
UNITED STATES BANKRUPTCY COURT CENTRAL DISTRICT OF CALIFORNIA - RIVERSIDE DIVISION	
In re: RAUL CARRILLO and ACELA CARRILLO Debtor(s).	CASE NO.: 6:20-bk-12067-WJ CHAPTER: 7 NOTICE OF SALE OF ESTATE PROPERTY

Sale Date: 01/25/2022	Time: 1:00 pm
Location: 3420 Twelfth Street, Riverside, CA 92501, Ctrm 304	

Type of Sale: ☒ Public ☐ Private **Last date to file objections:** 01/11/2022

Description of property to be sold:

The real property commonly known as 9546 Elm Avenue, Fontana, California 92335, APN 0233-191-12 ("Property").

Terms and conditions of sale:

(1) entry of a Bankruptcy Court Order approving the sale free and clear of all liens; (2) property sold in "AS-IS" "WHERE IS" condition; (3) no contingencies. See Exhibit "3" attached to the Motion for specific information on all conditions of the proposed sale.

Proposed sale price: \$ 550,000.00

Overbid procedure (if any): See attached Exhibit "1" Overbid Procedures.

If property is to be sold free and clear of liens or other interests, list date, time and location of hearing:

Date: January 25, 2022

Time: 1:00 p.m.

Ctrm: 304*

Address: United States Bankruptcy Court - 3420 Twelfth Street, Riverside, CA 92501

*Special COVID-19 procedures may apply. Please refer to the Court's website for more details.

Contact person for potential bidders (include name, address, telephone, fax and/or email address):

CHAD V. HAES

email: chaes@marshackhays.com

TINHO MANG

email: tmang@marshackhays.com

MARSHACK HAYS LLP

870 Roosevelt Avenue

Irvine, CA 92620

Telephone: (949) 333-7777

Agent: Jan Nieman - 818-516-3779; email: janneimanbroker@gmail.com

Date: 01/04/2022

EXHIBIT 1

Overbid Procedures

Larry D. Simons, in his capacity as Chapter 7 trustee (“Trustee”) of the bankruptcy estate (“Estate”) of Raul Carrillo and Acela Carrillo, requests that the sale of the real property commonly known as 9546 Elm Avenue, Fontana, CA 92335 (“Property”) be subject to overbid pursuant to the following procedures:

- 1) Buyers, Hector Antonio Garcia and Maya Garcia de Anda (“Buyers”), shall automatically qualify as initial bidders at the price of \$550,000, with an initial deposit of \$16,500.
- 2) Any person or entity other than the Buyers may seek to qualify as an overbidder by providing the following to Trustee *prior to the scheduled hearing*:
 - An earnest money deposit in the form of a cashier’s check in the amount of \$16,500, which must be provided to Trustee and Trustee must verify the earnest money funds before the hearing; and
 - Proof of funds showing ability to pay the balance of the purchase price or pre-approved financing of an amount no less than the initial overbid of \$555,000, and in no event less than the amount of the overbid.
- 3) If any person or entity submits an earnest money deposit and shows satisfactory proof of funds prior to the hearing on this Motion, they will be deemed a “Qualified Bidder” and Trustee may conduct an auction.
- 4) Buyers shall automatically qualify as a Qualified Bidder if they choose to proceed with bidding.
- 5) Only Qualified Bidders may participate in the auction.
- 6) Any overbid must remain open until the conclusion of the auction.
- 7) Any overbid must provide for a minimum purchase price of \$555,000 in good funds (“Initial Overbid”).
- 8) Any overbid must be for the Property “as-is,” “where-is,” and “with all faults” and shall not contain any contingencies whatsoever, consistent with the Buyers’ bid.
- 9) The minimum bidding increment for each successive bid shall be \$1,000.
- 10) The Qualified Bidder submitting the best and highest bid for the Property shall be deemed the Successful Bidder. If the Successful Bidder is not the Buyers, Buyers’

1 security deposit shall be refunded by Trustee. Additionally, all earnest money deposits
2 from parties who are not the Successful Bidder or wish to remain as a Back-Up Bidder
3 (defined below) shall be refunded in full by Trustee.

4 11) If an unsuccessful Qualified Bidder agrees, they may be considered a Back-Up Bidder
5 and may, if the Successful Bidder fails to close the sale, be substituted for the Successful
6 Bidder at their unsuccessful bid price, without further court order. If the Back-Up Bidder
7 wishes to have a good faith determination made at the initial sale hearing, the Back-Up
8 Bidder may submit evidence and receive a contingent good faith determination at that
9 time. The order in which Back-Up Bidders shall qualify shall be determined in Trustee's
10 sole discretion.

11 12) All Qualified Bidders shall be deemed to have consented to the core jurisdiction of the
12 Bankruptcy Court, to have the Bankruptcy Court fully and finally decide any dispute
13 arising from or related to the sale of the Property, and to have waived any right to jury
14 trial in connection with any such disputes.

15 13) If the Successful Bidder or any subsequent Back-Up Bidder fails to close escrow, the
16 entire balance of the \$16,500 earnest money deposit shall be forfeited.

17 If there are any Qualified Bidders other than the Buyers at the time of the hearing, Trustee
18 will inform the Court. Due to the ongoing COVID-19 global pandemic, Trustee may conduct the
19 auction via teleconference or videoconference, if in-person access to the courtroom is restricted.
20 Interested bidders are encouraged to contact Trustee's counsel, whose contact information can be
21 located on page 1 of this notice, prior to the hearing to make arrangements to participate in an
22 auction.

23 Trustee believes that the requested overbid procedures, including the minimum initial
24 overbid, earnest money deposit requirements, and the minimum bidding increment constitutes a
25 reasonable and modest protection for Buyers to act as the stalking horse bidder. Simons Declaration,
26 ¶ 10; *see McCarthy v. Goldman (In re McCarthy)*, 2008 Bankr. LEXIS 4688 at *56 (B.A.P. 9th Cir.
27 2008) (overbid procedures should not chill bidding).
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